IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1053 of 2002
to
FIRST APPEAL No. 1059 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE J.M.PANCHAL

HON'BLE SMT.JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL SOMABHAI KALIDAS - Appellant(s)
Versus
SPL.LAQ OFFICER & 1 - Defendant(s)

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Appearance :
MR JAYESH M.PATEL, FOR MR.AJ PATEL for Appellant(s)
MS KRINA P.CALLA, AGP for Respondent(s) (In FA No.1053/02 to 1055/02)
MS TANUJA N.KACHCHHI, AGP for Respondent(s) (In FA No.1056/02 to 1057/02)
MR KRUNAL D.PANDYA, AGP for Respondent(s) (In FA No.1058/02 to 1059/02)

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL

and

HON'BLE SMT.JUSTICE ABHILASHA KUMARI

Date : 05/12/2006

ORAL JUDGMENT (Per : HON'BLE MR.JUSTICE J.M.PANCHAL)

1. By filing these Appeals under Section 54 of the Land Acquisition Act, 1894 (“the Act” for short), read with Section 96 of the Code of Civil Procedure, 1908, the appellants-claimants have challenged that part of the judgment and award dated August 2, 2001, rendered by the learned Extra Assistant Judge, Mehsana, in Land Acquisition Reference No.1351 of 1997 to Land Acquisition Reference No.1357 of 1997 by which, the Reference Court, while awarding the additional amount of compensation to the claimants at the rate of Rs.23.60 ps. per sq.mt. for their acquired lands, over and above the compensation offered to them by the Special Land Acquisition Officer at the rate of Rs.3/- per sq.mt. by his award

dated December 11, 1995, has denied the interest on the amount which is awarded under Section 23(2) and Section 23(1-A) of the Act on the basis of decision of the High Court in Special Land Acquisition Officer, Bharuch v. Jagdishbhai – 1997(2) GLH (U.J.-17)27.

2. Pursuant to publication of notification under Section 4 of the Act in the official gazette on December 27, 1992, the lands of the claimants situated at village Shiyapura, Taluka: Kadi, District: Mehsana, were acquired for the public purpose of construction of Narmada Canal. In due course, declaration made under Section 6 of the Act was also published. Thereafter, the Special Land Acquisition Officer had issued notices to the claimants for determination of the amount of compensation payable to them and after hearing them, offered compensation to

them at the rate of Rs.3/- per sq.mt. by his award dated December 11, 1995 though their claim was Rs.30/- per sq.mt. Feeling aggrieved, the claimants sought References. Accordingly, the References were made to the District Court, Mehsana, where they were registered as Land Acquisition Reference No.1351 of 1997 to Land Acquisition Reference No.1357 of 1997.

3. On behalf of the claimants, witness Balchandbhai Kalidas Patel was examined at Ex.14 whereas on behalf of the opponents, two witnesses, namely (i) Patel Vishnubhai Jethabhai and (ii) Suthar Shantilal Govindbhai were examined at Ex.18 and Ex.21 respectively. The claimants produced previous award of the Reference Court relating to the lands of this very village at Ex.11. Further, they produced the judgment of the High Court rendered

on December 19, 2000, in First Appeals No.1959/2000 to 1974/2000, which indicated that the previous award of the Reference Court relating to the lands of village Shiyapura was confirmed by the High Court. The Reference Court, after placing reliance on the previous award of the Reference Court relating to the lands of this very village, awarded additional compensation to the claimants at the rate of Rs.23.60 ps. per sq.mt. by the impugned award. However, while awarding the additional amount of compensation to the claimants, the Reference Court has denied the benefit of interest to which the claimants would be entitled to on the amount awarded under Section 23(2) and Section 23(1-A) of the Act on the basis of judgment of the Division bench referred to earlier. In the Appeals the claimants have not only claimed the benefit of interest on the amount awarded to them under Section

23(2) and Section 23(1-A) of the Act but have also claimed that they should be awarded further additional amount of compensation at the rate of Rs.3.40 ps. per sq.mt.

4. This Court has heard Mr.Jayesh M.Patel, learned advocate for Mr.A.J.Patel, learned counsel for the claimants as well as Ms.Krina P.Calla, learned Assistant Government Pleader for the State at length and in great detail. This Court has also considered the paper-book supplied by the learned counsel for the claimants which includes oral as well as documentary evidence adduced by the parties before the Reference Court.

5. On instructions of the claimants, Mr.Jayesh M.Patel, learned cousnel for the appellants-claimants, states at the Bar that the claimants do not press their claim for additional amount of

compensation at the rate of Rs.3.40 ps. per sq.mt. raised in the instant Appeals. In view of the statement made at the Bar by the learned counsel for the claimants, this Court is of the opinion that the claim advanced by the claimants that they should be awarded further additional amount of compensation at the rate of Rs.3.40 ps. per sq.mt. deserves to be rejected as not pressed.

6. In *Sunder v. Union of India – 2001(2) GLH 446*, the five Judge Constitution Bench of Supreme Court has reproduced the reasons advanced by the Punjab and Haryana High Court in *State of Haryana v. Smt.Kailashwati and Ors. - AIR 1980 P & H 117*, and held that "...the statement of law is in accord with the sound principle of interpretation. Hence, the person entitled to the compensation awarded is also entitled to get interest

on the aggregate amount including solatium...". In view of the authoritative pronouncement of law by the Supreme Court on the point which is raised for consideration of this Court in the instant Appeals, this Court is of the opinion that the claimants are entitled to the interest on the amount awarded to them under Section 23(2) and Section 23(1-A) of the Act.

7. For the foregoing reasons, the Appeals partly succeed. The claim advanced by the appellants-claimants in these Appeals that they are entitled to further additional amount of compensation at the rate of Rs.3.40 ps. per sq.mt. is hereby rejected as not pressed. It is held that the claimants would be entitled to the interest on the amount awarded to them under Section 23(2) and Section 23(1-A) of the Act. The Appeals are allowed to the extent

indicated above only. There shall be no orders as to costs. The Registry is directed to draw decree in terms of this judgment immediately.

(J.M.Panchal, J.)

(Smt.Abhilasha Kumari, J.)

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